

**PUBLIC CHAPTER NO. 407**

**SENATE BILL NO. 756**

**By McNally, Marrero, Williams**

**Substituted for: House Bill No. 549**

**By Shepard, Matheny, Maddox, DuBois, Bell, Matlock, Bibb**

AN ACT to amend Tennessee Code Annotated, Section 4-3-1304 and Title 63, Chapter 10, relative to the board of pharmacy.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 4-3-1304, is amended by deleting subdivision (a)(9) in its entirety and by renumbering the remaining subdivisions accordingly.

SECTION 2. Tennessee Code Annotated, Title 63, Chapter 10, is amended in Parts 2 through 4 by deleting the word and numbers "parts 2-4" wherever they appear and by substituting instead the word and numbers "parts 2-5".

SECTION 3. Tennessee Code Annotated, Section 63-10-204, is amended in subdivision (3) by adding the language "or registration" at the end of the subdivision following the word "licensure"; in subdivision (11) by deleting the words "Tennessee board of pharmacy" and by substituting instead the words "health related boards"; and is further amended by inserting the following new subdivisions (14), (16), (21) and (34) and by renumbering the existing subdivisions accordingly:

(14) "Division" means the division of health related boards;

(16) "Executive director" means the executive director of the Tennessee board of pharmacy;

(21) "Medication therapy management program" means the distinct service or group of services that optimize therapeutic outcomes for individual patients. Medication therapy management services are independent of but can occur in conjunction with the provision of a medication product;

(34) "Prescription drug" means a drug that under federal or state law is required to be dispensed only pursuant to a prescription order or is restricted to use by prescribers, and that under federal law must be labeled with either the symbol "Rx only"; or the statement "Caution: Federal law restricts this drug to use by, or on the order of, a licensed veterinarian";

SECTION 4. Tennessee Code Annotated, Section 63-10-207, is amended in subsection (a) by inserting the words "of a prescription drug" between the words "dosages" and "necessary"; and is further amended by adding the following language as new subsection (c):

(c) If proper authorization cannot be obtained during the seventy-two (72) hour period, then the pharmacist may dispense the number of dosages necessary for one additional consecutive seventy-two (72) hour period in accordance with the requirements of this section.

SECTION 5. Tennessee Code Annotated, Section 63-10-209, is amended in subsection (b) by deleting the word "legend" and substituting instead the word "prescription"; and is further amended in subsection (b) by inserting the word "a" between the language "request of" and "practitioner in accordance".

SECTION 6. Tennessee Code Annotated, Section 63-10-210, is amended by deleting such section in its entirety and by substituting instead the following:

Section 63-10-210. A pharmacy that dispenses and mails a prescription into Tennessee from another state shall first pay the licensure fee required of a Tennessee pharmacy in accordance with the fees established by the board under the authority of Section 63-10-308. The license fees for out-of-state pharmacies and pharmacists shall not exceed those charged to Tennessee pharmacies and pharmacists.

SECTION 7. Tennessee Code Annotated, Section 63-10-212, is amended in subsection (a) by adding the following language as new subdivision (4):

(4) Provide a medication therapy management program or a quality assurance program.

SECTION 8. Tennessee Code Annotated, Section 63-10-301, is amended by designating the existing language as subsection (a) and adding the following language as new subsection (b):

(b) The members of the board shall be entitled to a per diem of one hundred dollars (\$100) for each day's service in attending meetings of the board and other administrative functions of the board as well as the necessary expenses for traveling and subsistence while attending such meetings and performing such other functions. All reimbursement for travel expenses shall be in accordance with the provisions of the comprehensive travel regulations as promulgated by the Department of Finance and Administration and approved by the attorney general and reporter.

SECTION 9. Tennessee Code Annotated, Section 63-10-303, is amended by placing a period after the words "pharmacist members" in the first sentence of subsection (a) and by deleting in its entirety all the remaining language of such section and by substituting instead the following:

(b) A majority of the members of the board shall constitute a quorum. The board president may, when it is deemed necessary, split the board into panels of three (3) or more each to conduct contested case hearings or disciplinary matters. When the board is split into panels for purposes of contested case hearings and disciplinary matters, three (3) or more members shall constitute a quorum.

(c) The division shall employ on behalf of and in consideration of the recommendation of the board an executive director who shall be a pharmacist who has been licensed in Tennessee for a period of at least five (5) years. The executive director's duties shall be those specified by the board and by the director and may include, but not be limited to, recording and compiling the minutes of the board, supervising the employees assigned by the division to support the board, performing such studies and research as the board or division directs, representing the board at such functions as authorized by the board and the division, and acting as consultant to the division in its enforcement duties on behalf of the board.

SECTION 10. Tennessee Code Annotated, Section 63-10-304, is amended by deleting subsection (a) in its entirety and by substituting instead the following:

(a) It is the duty of the board to enforce all the laws of the state now or hereafter enacted that pertain to the practice of pharmacy, the manufacture, distribution or sale of drugs, and the medication use process including, but not limited to: compounding, selection, preparation/production, dispensing/distribution, patient administration, education and monitoring of drugs, devices, chemicals or poisons. The division shall employ for the board the necessary administrative and clerical staff and investigators who are pharmacists to carry out the board's duty to enforce the pharmaceutical laws. The pharmacist investigators will be authorized to conduct inspections of pharmacies and any other site where drugs, medicines, chemicals, pharmaceuticals or poisons are manufactured, stored, sold, dispensed, distributed or administered and will conduct investigations of any licensee of the board. The pharmacist investigators may also assist in inspections and investigations undertaken by other health related boards attached to the division, and investigators assigned to these other health related boards may assist pharmacist investigators as appropriate.

SECTION 11. Tennessee Code Annotated, Section 63-10-304, is amended in subsection (d) by deleting all the language and punctuation of that subsection after the word "times" and by substituting instead the language and punctuation "as it deems necessary to perform its duties under this chapter."

SECTION 12. Tennessee Code Annotated, Section 63-10-304, is amended by deleting subsection (f) in its entirety and by substituting instead the following:

(f)(1) The board is authorized to conduct hearings and issue orders concerning alleged violations of parts 2-5 of this chapter or rules promulgated pursuant thereto and shall retain jurisdiction over all of its orders to allow, when good cause is established, modification of such orders and the reinstatement or reactivation of any license or certificate that it revoked or suspended pursuant to any such order.

(2) The board is authorized to petition any circuit or chancery court, having jurisdiction of any person who is practicing pharmacy in Tennessee without a valid license or who has violated any of the provisions of parts 2-5 of this chapter or the rules of the board, to enjoin such person from continuing to practice within this state.

SECTION 13. Tennessee Code Annotated, Section 63-10-304(g), is amended by deleting subdivision (2) in its entirety and by substituting instead the following:

(2) The board may authorize, subject to the approval of the commissioner, administrative and investigative personnel and board members to attend local, state, regional and national meetings and to perform other necessary functions. These personnel shall be reimbursed for all travel and other necessary expenses which shall be claimed and paid in accordance with the prevailing travel regulations of state government.

SECTION 14. Tennessee Code Annotated, Section 63-10-304, is amended by deleting subsection (h) in its entirety and by re-lettering the remaining subsections accordingly.

SECTION 15. Tennessee Code Annotated, Section 63-10-305, is amended by deleting the first sentence of such section in its entirety and by substituting instead the following:

The board is authorized to deny, restrict, or condition any application for licensure or certification and is authorized to revoke, suspend or otherwise discipline and assess civil penalties against any license or certification previously issued upon a finding that the applicant, licensee or holder of a certificate has:

SECTION 16. Tennessee Code Annotated, Section 63-10-305, is amended in subdivision (8) by inserting the words "or duly promulgated rule" between the words "order" and "of".

SECTION 17. Tennessee Code Annotated, Section 63-10-306, is amended by deleting subsections (b), (c) and (d) in their entireties and by substituting instead the following:

(b) The board is authorized to establish the experience and education qualifications necessary for admission to the board's licensure or certification examination(s).

(c) The board may utilize any national certification or licensure examination or contract any qualified examination agency to prepare and administer its licensure examination(s), and the board shall establish by rule the minimum score necessary to pass any licensure or certification examination(s) required by the board.

(d) An applicant for licensure as a pharmacist must be at least twenty-one (21) years of age, be a graduate of a school or college of pharmacy recognized by the board and submit an application for licensure on form(s) approved by the board and pursuant to board rules and regulations.

SECTION 18. Tennessee Code Annotated, Section 63-10-306, is amended by deleting subsection (g) in its entirety and by substituting instead the following:

(g) The board shall have the authority to establish the criteria, timing and procedure for renewal of licenses and certifications.

(h) The board is authorized to establish any and all necessary requirements for continuing education for those it licenses or to whom it issues certificates. This authority includes, but is not limited to, the establishment of the number of hours required, approval of providers and course content, enforcement and qualification for waiver of the requirements or extension of time in which to obtain the continuing education.

(i) The board shall define by rule the scope of practice of a pharmacy technician and the qualifications necessary to practice as a pharmacy technician. The board may designate by rule which national or other qualified pharmacy technician certification agencies will be recognized in Tennessee for purposes of holding the status of a certified pharmacy technician.

SECTION 19. Tennessee Code Annotated, Section 63-10-307, is amended by deleting the words "pharmacist members of the board or their" in the first sentence of subsection (a) and by substituting instead the words "board or its"; and is further amended by deleting subsection (b) in its entirety.

SECTION 20. Tennessee Code Annotated, Section 63-10-308, is amended by deleting such section in its entirety and by substituting instead the following:

Section 63-10-308. (a) The board is authorized to establish pursuant to duly promulgated rules fees necessary to carry out the provisions of parts 2-5 of this chapter.

(b) All monies received by the board shall be deposited and dispensed pursuant to the provisions of Section 63-1-137.

SECTION 21. Tennessee Code Annotated, Section 63-10-310, is amended by deleting subsection (a) in its entirety and by substituting instead the following:

(a) For the purposes of transferring the board of pharmacy from the Department of Commerce and Insurance to the Department of Health, the existing members of the board of pharmacy shall continue to serve as members of the Tennessee board of pharmacy until their terms expire. All rules and regulations of the state board of pharmacy shall remain in force and effect until modified, superseded or repealed by the board of pharmacy. All orders, decisions, licenses and certifications heretofore issued by the board of pharmacy or the Department of Commerce and Insurance relating to or on behalf of the board of pharmacy shall remain in full force and effect and shall hereafter be administered and enforced by the Department of Health. To this end, the division of health related boards shall have the authority, consistent with the statutes and regulations pertaining to the programs and functions transferred herein, to modify orders, decisions, licenses and certifications heretofore issued and to adopt and issue new orders as may be necessary for the administration of the programs or functions herein transferred.

SECTION 22. This act shall take effect July 1, 2007, the public welfare requiring it.

**PASSED: May 29, 2007**



RON RAMSEY  
SPEAKER OF THE SENATE



JIMMY NAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

**APPROVED this 11th day of June 2007**



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PHIL BREDESEN, GOVERNOR